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Attorneys for Plaintiff YELLOWCAKE, INC.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

YELLOWCAKE, INC., a California)	Case No.:
corporation,)	
)	PLAINTIFF'S COMPLAINT
Plaintiff,)	AND JURY DEMAND
)	
v.)	
)	Judge:
HYPHY MUSIC, INC.,)	
)	
Defendant.)	
)	

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1 Plaintiff Yellowcake, Inc. (“Plaintiff” or “Yellowcake”), through its undersigned
2 attorneys, alleges the following against Defendants:

3 **NATURE OF THE ACTION**

4 1. By this complaint, Yellowcake, a California corporation that owns, holds
5 and exploits intellectual property, seeks redress for Defendant’s direct and contributory
6 infringement of Yellowcake’s copyrighted works. Yellowcake alleges that Defendant
7 willfully and intentionally infringed its rights in seven (7) copyrighted sound recordings
8 registered with the United States Copyright Office (“Yellowcake’s Copyrighted
9 Works”).

10 2. Defendant exploited, and continues to exploit, Yellowcake’s Copyrighted
11 Works by, *inter alia*, their unauthorized reproduction, sale, synchronization, distribution
12 and public performance via digital transmission on online platforms, including without
13 limitation iTunes, Apple Music, Spotify, Amazon Music and www.YouTube.com
14 (“YouTube”). As a result, Defendant benefitted, and continues to benefit, from said
15 unauthorized exploitations of Yellowcake’s Copyrighted Works. Despite being on
16 notice of its infringement, Defendant has refused to remedy its wrongdoing, leaving
17 Yellowcake no alternative but to bring this action.

18 **JURISDICTION AND VENUE**

19 3. This is a civil action in which Plaintiff seeks monetary damages and
20 injunctive relief against Defendant for copyright infringement under the copyright laws
21 of the United States: 17 U.S.C. § 101 *et seq.*

22 4. This Court has jurisdiction under 17 U.S.C. § 101 *et seq.*; 28 U.S.C. § 1331
23 (federal question jurisdiction); and 28 U.S.C. § 1338(a) (copyright).

24 5. This Court has supplemental jurisdiction over all common law claims
25 pursuant to 28 U.S.C. § 1367.

26 6. This Court has personal jurisdiction over Defendant, and venue in this
27 District is proper under 28 U.S.C. § 1391(b) and (d) and 28 U.S.C. § 1400(a), in that the
28 Defendant or its agents are conducting business in this District, Yellowcake is located

1 in, and conducts business in, this District, and a substantial part of the acts of
2 infringement complained of herein occurred in this District.

3 **PARTIES**

4 7. Plaintiff is a California corporation duly organized and existing under the
5 laws of the State of California, with its principal place of business in the State of
6 California, County of Stanislaus.

7 8. Plaintiff is informed and believes, and thereon alleges, that Defendant
8 Hyphy Music, Inc. (“Hyphy”) is a corporation for profit duly organized and existing
9 under the laws of the State of California with its principal place of business in the State
10 of California, County of Fresno.

11 9. Plaintiff is informed and believes, and thereon alleges, that Hyphy is in the
12 business of selling and distributing music.

13 **FACTUAL ALLEGATIONS**

14 10. Plaintiff is primarily engaged in the business of exploiting intellectual
15 property rights.

16 11. Plaintiff Yellowcake or its predecessor in interest has always owned,
17 maintained, and controlled the exclusive, true, and valid copyrights in Yellowcake's
18 Copyrighted Works.

19 12. Yellowcake has complied in all respects with the provisions of the
20 Copyright Act, 17 U.S.C. §101 *et seq.* Yellowcake has registered the sound recordings
21 with the United States Copyright Office and was issued a Certificate of Registration for
22 each copyrighted sound recording that comprises Yellowcake’s Copyrighted Works.

23 13. The copyright registration information for each of Yellowcake's
24 Copyrighted Works is annexed hereto as **Exhibit “A”**.

25 14. All of Yellowcake's Copyrighted Works are and were published with a
26 copyright notice.

27 15. Yellowcake is informed and believes, and thereon alleges, that Defendant
28 has engaged in a number of unauthorized exploitations of Yellowcake's Copyrighted

1 Works in violation of Yellowcake's exclusive rights under 17 U.S.C. § 106 including,
2 but not limited to, the sale, reproduction, synchronization, distribution, and public
3 performance of Yellowcake's Copyrighted Works via digital transmission on the online
4 platforms, including but not limited to, iTunes, Apple Music, Spotify, Amazon Music
5 and YouTube, without Yellowcake's authorization.

6 16. Yellowcake is informed and believes, and thereon alleges, that Defendant
7 created and/or uploaded, or caused to be created and/or uploaded, videos containing
8 unauthorized derivative works of Yellowcake's Copyrighted Works to YouTube.

9 17. Yellowcake is informed and believes, and thereon alleges, that Defendant
10 benefitted, and continues to benefit, from said unauthorized exploitations of
11 Yellowcake's Copyrighted Works.

12 18. In or about May and June 2020, Yellowcake notified Defendant and/or one
13 of Defendant's agents and business affiliates of Defendant's unauthorized exploitation
14 of Yellowcake's Copyrighted Works.

15 19. Despite having notice of its infringement, Defendant has continued its
16 unauthorized exploitation of Yellowcake's Copyrighted Works.

17 **FIRST CAUSE OF ACTION**

18 **Copyright Infringement Under 17 U.S.C. § 101 et seq.**

19 **(Against Defendant)**

20 20. Plaintiff Yellowcake incorporates the allegations set forth in paragraphs 1
21 through 19 hereof, as though the same were set forth herein.

22 21. This cause of action arises under 17 U.S.C. § 501.

23 22. Each of the sound recordings and albums comprising the Yellowcake
24 Copyrighted Works was registered with the United States Copyright Office either by
25 Yellowcake or by its predecessor in interest.

26 23. At all times relevant, Yellowcake, or its predecessor in interest, has owned
27 Yellowcake's Copyrighted Works and has been the only owner of the exclusive rights
28 provided under 17 U.S.C. § 106.

1 24. Yellowcake's Copyrighted Works are sound recordings and are original
2 works of authorship constituting copyrightable subject matter within the meaning of 17
3 U.S.C. § 102.

4 25. Defendant infringed Yellowcake's Copyrighted Works by selling,
5 reproducing, synchronizing, distributing, publicly performing, and making derivative
6 works of Yellowcake's Copyrighted Works without authorization from Yellowcake.

7 26. By selling, reproducing, synchronizing, distributing, making derivative
8 works of, and publicly performing by means of digital transmission, videos containing
9 Yellowcake's Copyrighted Works, Defendant's acts violate Yellowcake's exclusive
10 rights under 17 U.S.C. § 106.

11 27. Yellowcake has never granted Defendant the right, or otherwise authorized,
12 Defendant to exploit Yellowcake's Copyrighted Works.

13 28. Yellowcake is informed and believes, and thereon alleges, that Defendant
14 had actual knowledge that Yellowcake was, and remains, the lawful owner of
15 Yellowcake's Copyrighted Works.

16 29. Yellowcake is informed and believes, and thereon alleges, that Defendant
17 had actual knowledge that it did not have the rights to exploit Yellowcake's Copyrighted
18 Works.

19 30. Defendant had actual or constructive awareness that its unauthorized use of
20 Yellowcake's Copyrighted Works constituted infringement of Yellowcake's
21 Copyrighted Works. Alternatively, Defendant's acts of infringement resulted from a
22 reckless disregard for, or willful blindness to, Yellowcake's rights.

23 31. Yellowcake is entitled to an injunction restraining Defendant, its officers,
24 directors, agents, employees, representatives, and all persons acting in concert with
25 Defendant from further engaging in such acts of copyright infringement.

26 32. Pursuant to 17 U.S.C. § 504, Yellowcake is further entitled to recover from
27 Defendant actual damages, or statutory damages in an amount up to One Hundred Fifty
28 Thousand Dollars (\$150,000.00) for each work infringed by Defendant.

33. Pursuant to 17 U.S.C. § 505, Yellowcake is further entitled to recover from Defendant the reasonable attorneys' fees and legal costs incurred by Yellowcake as a result of Defendant's acts of copyright infringement.

34. Upon information and belief, Yellowcake is entitled to damages not readily ascertainable but believed to be in excess of One Million Fifty Thousand Dollars (\$1,050,000.00).

SECOND CAUSE OF ACTION

Injunctive Relief

(Against Defendant)

35. Plaintiff Yellowcake incorporates the allegations set forth in paragraphs 1 through 34 hereof, as though the same were set forth herein.

36. By reason of Defendant's continued willful infringement, Yellowcake has sustained and will continue to sustain substantial injury, loss and damage to its ownership rights in Yellowcake's Copyrighted Works.

37. The conduct of Defendant is currently causing and, unless enjoined and restrained by this Court, will continue to cause Yellowcake great and irreparable injury that cannot fully be compensated or measured in money. Yellowcake has no adequate remedy at law.

38. Pursuant to 17 U.S.C. §§ 502 and 503, Yellowcake is entitled to injunctive relief prohibiting Defendant from further infringing Yellowcake's copyrights, and ordering Defendant to destroy all copies of Yellowcake's Copyrighted Works in its possession.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

First Cause of Action:

1. For actual or statutory damages for each of Yellowcake's Copyrighted Works infringed pursuant to 17 U.S.C. § 504, in an amount to be elected and proven at the time of trial and believed to be in excess of One Million Fifty Thousand Dollars

1 (\$1,050,000).

2 2. For exemplary or punitive damages in an amount to be established at trial
3 according to proof.

4 3. For Plaintiff's costs in this action.

5 4. For Plaintiff's reasonable attorneys' fees incurred herein pursuant to
6 statute.

7 5. For such other and further relief as the Court may deem just and proper.

8 Second Cause of Action:

9 1. For a temporary, preliminary and permanent injunction providing:
10 "Defendant shall be and hereby is enjoined from directly or indirectly infringing upon
11 Yellowcake's rights under federal or state law in Yellowcake's Copyrighted Works and
12 any sound recording, whether now in existence or later created, that is owned or
13 controlled by Yellowcake (or any parent, subsidiary, or affiliate record label of
14 Yellowcake) including without limitation using the Internet, any media distribution
15 system or any other means to reproduce, download or otherwise obtain possession of
16 any of Yellowcake's Copyrighted Works; or to distribute, upload or otherwise make any
17 of Yellowcake's Copyrighted Works available for distribution to the public, except
18 pursuant to a lawful license or with the express written authority of Yellowcake.
19 Defendant also shall destroy all copies of Yellowcake's Copyrighted Works that
20 Defendant has downloaded, uploaded, maintained or stored in any way, without
21 Yellowcake's express written authorization and shall destroy all copies of Yellowcake's
22 Copyrighted Works transferred to or fixed in any physical medium or device in
23 Defendant's possession, custody, or control."

24 2. For Plaintiff's costs in this action.

25 3. For Plaintiff's reasonable attorneys' fees incurred herein pursuant to
26 statute.

27 4. For such other and further relief as the Court may deem just and proper.

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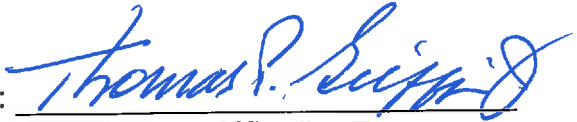
DEMAND FOR JURY TRIAL

Plaintiff requests a trial by jury on all issues so triable.

Dated: July 16, 2020

Respectfully submitted,

HEFNER STARK & MAROIS, LLP

By: 

Thomas P. Griffin, Jr., Esq.

Attorneys for Plaintiff Yellowcake

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EXHIBIT A

Artist	Album	Tracks	SR NUMBER	INFRINGING UPC
Los Originales de San Juan	Amigos y Contrarios	14	SR0000863320	888003162808
Los Originales de San Juan	Corridos de Poca M	10	SR0000863319	889176663055
Los Originales de San Juan	Desde La Cantina de Mi Barrio (En Vivo)	15	SR0000866471	191018998417
Los Originales de San Juan	El Campesino (Album)	14	SR0000863321	190374798310
Los Originales de San Juan	Chuy Chavez y Sus Amigos	14	SR0000864338	89269600237
Los Originales de San Juan	Naci Con Suerte de Rey (Mariachi)	12	SR0000864340	758381471444
Los Originales de San Juan	Nuestra Historia (En Vivo)	16	SR0000864336	758381471451